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### Remarks

#### **I. Status of the Claims**

Claims 1-37 are pending in the present application, all of which stand rejected. By the present amendment, claims 1, 9, 16, 23 and 31 have been amended. The independent claims have been amended to more clearly recite the invention without limiting the scope of the claims and dependent claims 32-37 have been amended to be consistent with claim 31, from which they depend. No new matter has been added by these amendments. Favorable reconsideration of the instant application is respectfully requested in light of the foregoing amendments and following remarks.

#### **II. Objection to the Specification**

The specification has been objected to as containing bracketed paragraph numbers. Applicants respectfully submit that the specification, including the paragraph numbering, is proper and in accordance with MPEP Section 608.01 and 37 CFR Section 1.52(b)(6). Accordingly, Applicants respectfully request that the objection to the specification be withdrawn.

#### **III. Objections to the Oath/Declaration**

The previously filed declaration has been objected to as not identifying the mailing or post office address of each inventor. Accordingly, enclosed herewith is a supplemental declaration identifying the instant application by serial number and filing date, as well as providing the post office address for each inventor. Accordingly, Applicants respectfully request that the objection to the declaration be withdrawn.

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#### IV. Summary of Personal Interview

Applicants thank the Examiner for the courtesies he extended during the personal interview on June 3, 2003. During the interview Applicants, Applicants' undersigned attorney of record and the Examiner discussed independent claims 1, 9, 16, 23 and 31 and the references relied upon in the outstanding Office Action, namely, Korhammer and Bigus.

As described in greater detail below, Applicants argued that the references failed to teach or suggest the claim limitations of: (1) reading information from an Order Management System database; and (2) automatically providing non-binding indications to an electronic trading marketplace (ETM). To highlight these arguments and in response to the Examiner's suggestion, the claims have been amended to explicitly recite that the ETM automatically receives "non-binding indications," as opposed to binding orders. Support for this amendment is at pages 5 and 14 of the specification.

Additionally, the Examiner asked for confirmation that the term "module" was clearly defined. Such term is defined in the specification at page 12 as follows.

As used herein, the term "module" refers to machine-executable code and/or data, but may also include associated circuitry, such as processing circuitry, as well as data storage areas, and/or any other software or hardware. Thus, it will be appreciated that one or a combination of hardware and software, such as a computer system executing software for performing the functionality of the modules, may implement each of the modules shown in FIG. 2.

Thus, Applicants respectfully submit that the term module is clearly defined and the scope of the claims are clearly set forth.

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**V. Rejections under 35 U.S.C. Section 102**

Claims 1, 2, 4, 5, 7, 8-15 and 23-37 have been rejected under 35 U.S.C. Section 102 (e) as being anticipated by U.S. Patent No. 6, 278, 982 to Korhammer et al. ("Korhammer").

Applicants respectfully submit that Korhammer fails to teach or suggest the present invention.

The present invention, as defined by independent claims 1, 9, 23 and 31, is directed to a system and method that is fundamentally different than that described in Korhammer. As described in greater detail below, Korhammer is directed to a system for enabling a trader to interact, through a single software application, with multiple trade venues, such as ECNs, exchanges and market makers. The system merely consolidates the bids and offers from such venues and does not alter the manner in which traders enter transactions with the venues, namely, by manually entering (or clicking on) a firm order to transmit the order. In contrast, the present invention is directed to a system and method for reading non-binding indications of interest, not firm orders, automatically from an order management system database. These differences are significant, providing each system with markedly different characteristics.

More specifically, each of the independent claims 1, 9, 23 and 31 recites that the system/method:

- (1) reads information from an Order Management System (OMS) database; and**
- (2) automatically provides non-binding indications, not firm orders, to the electronic trading marketplace.**

In this regard, independent claim 1 (as amended) recites:

an interfacing module interfacing with an order management system (OMS) database and in communication with the ETM for reading data records in the OMS database reflecting orders for securities and for automatically providing non-binding indications for securities to the ETM.

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As described in the specification, the system can read the data identifying orders for securities in the database directly, via, for example, accessing the database itself by polling or querying it, or read the data in the database indirectly, via, for example, listening for network or specific interprocess communication traffic. See Specification, page 23. Regardless of whether the reading of the database is direct or indirect, the information or data is "pulled" and used to automatically provide an indication of interest to the ETM.

Claim 1 further recites that the "electronic trading marketplace (ETM) [is] for receiving non-binding indications for securities." As is made clear in the specification (e.g., pages 5, 14), in contrast to orders, such indications are non-binding.

The other independent claims rejected over Korhammer also recite that indications are automatically provided to the ETM (claim 9 includes an ETM communications module for "automatically providing non-binding indications . . . to the ETM;" claim 23 includes "automatically providing non-binding indications . . . to an electronic trading marketplace;" and claim 31 includes an ETM communication module for "automatically providing non-binding indications"). As such, each of these independent claims involves the transmission not of firm orders, but rather of non-binding indications of interest.

Like claim 1, these other independent claims also recite that these indications are provided to the ETM based, at least in part, on reading data from an OMS database (claim 9 recites "an OMS database interaction module for reading data records in the OMS database;" method claim 23 recites "reading data records in a database of an order management system (OMS);" and claim 31 recites "an OMS database interaction module for reading data records in the OMS database"). Thus, each of the independent claims rejected over Korhammer recites reading from an OMS database.

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Automatically providing non-binding indications to the ETM by reading data from the OMS database is a fundamental feature of the system and method of the present invention. Because indications are automatically provided to the ETM from member traders' or member firms' OMS databases, the ETM offers increased liquidity over prior systems. By reading or "pulling" order information from the OMS databases, all or most of a firm's order book is available for other member firms to see. Notably, the present inventors decided that the best way to provide increased liquidity was to have a system and method that interacted with the trader's OMS to read or pull information from the OMS database and automatically provide order information to the ETM in the form of non-binding indications, not firm orders. Furthermore, the automated aspect of the system allows traders to conduct trades without both entering order information in their OMS and placing the order information with an ETM.

[T]here is no need for traders to specifically request that individual orders in the OMS databases are transmitted to the ETM; orders in the databases are sent to the ETM without the traders' input (subject to filtering criteria).

See specification, pages 25-11.

Applicants respectfully submit that Korhammer neither teaches nor suggests (1) reading order information from an OMS database or (2) automatically providing non-binding indications to an ETM. Indeed, Korhammer is directed to the typical trading paradigm of a trader (1) manually entering and submitting (2) firm orders to an execution venue, such as an ECN or NASDAQ.

In general, Korhammer is directed to a single platform for consolidating multiple trading venues each having its own terminal and protocol. Col. 2, lines 44-46. The system of Korhammer "eliminates the need for a separate terminal or application for each ECN and electronic exchange by use of the [consolidating computer system] CCS 100." Col 6, lns 51-53.

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The CCS "collects orders from each ECN . . . and electronic exchanges [and] distributes a composite order book to the customers." Col 6, lns 59-62. "The customized order book is displayed on the customer's terminal 101 [to allow] the customer to compare the information from all ECNs." Col 7, lns 6-9. In response, the customer manually enters the details of a firm order via a buy order entry screen (Fig. 8) or sell order entry screen (Fig. 9) and by clicking a "Submit" button. Cols 10 and 11.

In rejecting claim 1, the Office Action relies on the consolidating computer system (CCS) 100 of Korhammer as meeting the interfacing module. The interfacing module of claim 1 reads data from a member firm's OMS database for automatically providing indications to the ETM. In contrast, the CCS of Korhammer merely consolidates binding orders already placed by other traders on multiple ECNs and exchanges. There is no reading of data or other information from a customer's OMS database.

Indeed, Korhammer does not even mention an OMS or an OMS database. The Office Action relies on the terminal 101 of Korhammer as containing the customer's OMS database. Consistent with Korhammer's purpose of consolidating orders, the terminal 101 contains the order book of all ECNs and exchanges. It also appears that the Office Action also relies on the ECN Order Book 15 of Korhammer as disclosing the OMS database and the order information therein. This is not the customer's order information, as contained in the recited OMS, but rather it is the ECN's order book consisting of firm orders already submitted to the ECN by other traders. Thus, the ECN order book cannot meet the recited OMS claim limitations.

Furthermore, Korhammer fails to teach or suggest automatically providing non-binding indications, as recited in the claims. Instead, Korhammer is directed to the standard trading paradigm of the customer entering a binding buy or sell order by manually entering it via an

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order entry screen. See col 10, lns 1 et seq. If order information was pulled from an OMS database, there would be no need in Korhammer to manually enter and submit orders. In meeting the "automatic" limitation, the Office Action cites to col 8, lns 39-46 and to Fig 7; however, neither the specification nor any of the figures suggests automatically providing indications. Column 8 merely describes the system automatically breaking up an order and determining when or where to place binding orders. The customer must still manually enter the order. Indeed, Fig. 7 requires entry of the order as the first step, which is performed by manually clicking a "submit" button on either the buy order entry screen or sell order entry screen. Figs. 8 and 9.

Accordingly, Applicants respectfully submit that Korhammer fails to teach or suggest either (1) reading from an OMS database or (2) automatically providing non-binding indications, as recited in each of the independent claims 1, 9, 23 and 31, and therefore, fails to anticipate or render obvious independent claims 1, 9, 23 and 31 or dependent claims 2-8, 10-15, 24-30 and 32-37, which are in condition for allowance.

#### **VI. Rejections Under 35 U.S.C. Section 103**

Claims 3, 6 and 16-22 stand rejected as being obvious over Korhammer in view of US Patent No. 6,401,080 to Bigus et al. ("Bigus"). Applicants respectfully submit that neither Korhammer nor Bigus, either alone or in combination, teaches or suggests the invention as claimed.

As for claims 3 and 6, which depend from claim 1 discussed above, Applicants respectfully submit that these claims are patentable for at least the reasons noted above in connection with claim 1. Like Korhammer, Bigus fails to teach or suggest either (1) reading from an OMS database or (2) automatically providing indications. Bigus is directed to an intelligent agent for conducting automated negotiations on behalf of a trader. In the present systems and

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methods, negotiations between traders, whether manual or automatic, are separate from providing indications to the ETM. Indeed, while claims 3 and 6 recite providing indications to the ETM, the claims do not require any particular form of negotiation. Accordingly, Applicants respectfully submit that Bigus fails to cure the deficiencies of Korhammer.

As for independent claim 16 and claim 17-22, which depend therefrom, Applicants respectfully submit that these claims are patentable for at least the reasons noted above in connection with claims 1, 9, 23 and 31. Claim 16 recites:

a data integration module for receiving and processing data representative of non-binding indications of interest to trade securities automatically read from an OMS database in the OMS by the interfacing module

As discussed above, nowhere does Korhammer or Bigus teach or suggest reading from an OMS database. Indeed, claim 16 further explicitly recites that such reading is done “automatically” a feature neither taught nor suggested by either Korhammer or Bigus. Accordingly, Applicants respectfully submit that claim 16 and claims 17-22, which depend therefrom, are not rendered obvious by Korhammer and Bigus and are in condition for allowance.

#### **VII. Reference to *Fox***

Applicants note that the Office Action refers to the “*Fox*” reference (see, e.g., Office Action at page 6). It is unclear to what *Fox* refers, as there is no such reference identified in either the Notice of References Cited, Form PTO-892, accompanying the Office Action, or in Applicants Information Disclosure Statement/Form PTO-1449. Accordingly, Applicants respectfully request that if such reference has been considered, the reference be included in a Notice of References Cited and a copy be provided to Applicants. Furthermore, if such a *Fox* reference has been considered and was meant to be applied to the claims, because Applicants



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have been unable to consider it, Applicants respectfully submit that the present Amendment is fully responsive to the Office Action and that any subsequent Office Action relying on the *Fox* reference be Non-Final.

**Conclusion**

Applicants thus believe that the claims in the present application are in condition for allowance. Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and remarks.

If any extension of time is required to have this paper entered and considered, such extension is hereby petitioned. Any additional fees or charges necessary in connection with the present application are hereby authorized to be charged to Deposit Account No. 19-4709.

Respectfully submitted,



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